

2006

# Eastern Utah Broadcasting, Workers' Compensation Fund, and Employers' Reinsurance Fund v. Labor Commission of Utah : Brief of Respondent

Utah Court of Appeals

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IN THE UTAH COURT OF APPEALS

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EASTERN UTAH BROADCASTING,  
WORKERS' COMPENSATION  
FUND, and EMPLOYERS'  
REINSURANCE FUND,

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Petitioners,

v.

LABOR COMMISSION of UTAH  
NANCY M. WOOD,

Respondents.

**BRIEF OF RESPONDENT  
NANCY M. WOOD**

Appeal No. 2006370-CA

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Petition for Review of Labor Commission Order

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## **STATEMENT OF JURISDICTION**

This Court has jurisdiction pursuant to Utah Code Ann. § 78-2a-3(2)(a).

## **ISSUES PRESENTED**

Whether the Labor Commission finding that Mrs. Wood's stress "arose predominantly and directly from her employment" is supported by the evidence and whether the Petitioners properly marshaled the evidence?

Whether the other statutes cited by the Petitioners are applicable in this case?

Whether this case should be reversed and remanded with an order to dismiss Mrs. Wood's claim with prejudice?

## **DETERMINATIVE PROVISIONS**

Utah Code Ann. § 34A-3-106

(1) Physical, mental, or emotional diseases related to mental stress arising out of and in the course of employment shall be compensable under this chapter only when there is a sufficient legal and medical causal connection between the employee's disease and employment.

(2)(a) Legal causation requires proof of extraordinary mental stress arising predominantly and directly from employment.

(b) The extraordinary nature of the alleged mental stress is judged according to an objective standard in comparison with contemporary national employment and nonemployment life.

(3) Medical causation requires proof that the physical, mental, or emotional disease was medically caused by the mental stress that is the legal cause of the physical, mental, or emotional disease.

(4) Good faith employer personnel actions including disciplinary actions, work evaluations, job transfers, layoffs, demotions, promotions, terminations, or retirements, may not form the basis of compensable mental stress claims under this chapter.

(5) Alleged discrimination, harassment, or unfair labor practices otherwise actionable at law may not form the basis of compensable mental stress claims under this chapter.

(6) An employee who alleges a compensable occupational disease involving mental stress bears the burden of proof to establish legal and medical causation by a preponderance of the evidence.

### **STATEMENT OF THE FACTS**

Mrs. Wood was employed by Eastern Utah Broadcasting (“EUB”) beginning in 1980. (Hearing page 23).<sup>1</sup> She stayed with the company until March 16, 2000, when she was forced to leave because of a nervous breakdown. (Medical page 22).<sup>2</sup> Mrs. Wood’s initial position at EUB was as a salesperson.

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<sup>1</sup> The hearing transcript is identified in the record as page 149. The original transcript numbering is then used to identify the pages within the transcript. For ease of reference the hearing transcript will simply be identified as “Hearing” in this brief.

<sup>2</sup> The medical records exhibit is identified in the record as page 148. The original numbering of the medical records exhibit used at the administrative level is then

(Hearing page 24). Her duties included selling the radio spots, gathering information to write the spot, and collections and billing. (Hearing page 24). She was required to call each of her accounts at least once each week. (Hearings page 30). From the beginning, her work involved a significant amount of stress.

Mrs. Wood was given 50 accounts when she first started. (Hearing page 25). She was responsible for every aspect of these accounts and was the key person responsible for all contact with the client as well as all administrative duties. (Hearing page 24). In 1981 she was sent to her first "boot camp" training required by EUB. (Hearing pages 24-25). The training was extremely intense and involved public ridicule. (Hearing pages 24-25). She attended this training about once each year for the entire time she worked at EUB. (Hearing page 25).

Mrs. Wood's responsibilities at EUB rapidly increased. Once she learned the ropes she was given more and more accounts to handle. (Hearing page 28). EUB downsized and within the first five years of working at EUB the sales staff had dropped from four to two. The two remaining salespeople handled all of the accounts previously handled by four. (Hearing page 28). In 1986 EUB started a shopping show business, which again doubled Mrs. Wood's workload. (Hearing page 32). By the late 1980's Mrs. Wood was the only sales person and was responsible for all 200 of EUB's accounts. (Hearing pages 37-38). Other salespeople were hired but the turnover was so frequent that Mrs. Wood was

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used to identify pages within the medical record. For ease of reference the medical records exhibit is identified as "Medical" in this brief.



responsible for all of the accounts for years at a time. (Hearing page 41). In 1997 she became the sales manager and assumed the responsibilities of hiring and training new salespeople as well as handling her own accounts. (Hearing pages 55-56).

During her entire employment at EUB Mrs. Wood was under considerable stress. She carried two cell phones and often received calls as early as 5:00 A.M. and as late as 11:00 P.M. (Hearing page 47). It was not uncommon for both phones to be ringing at the same time. (Hearing page 46). Her job also involved considerable travel to meet with clients and help produce early morning remote radio shows. (Hearing pages 38 & 39). She was taught and encouraged to just get the job done no matter what it took. (Hearing page 95). One fellow employee was even yelled at because she did not answer the phone while she was in the bathroom. (Hearing page 62). Mrs. Wood often began work at 5:00 A.M. when she wrote the memos she needed to write for the day. (Hearing page 46). She would then be at the office by 7:30 A.M. (Hearing page 59). She would often work until 6:00 or 7:00 P.M., or even later. (Hearing page 59). She was available even on weekends to answer her telephones. (Hearing page 47). The company policy was that she was available from 8:30 A.M. until 5:30 P.M, (Hearing page 61), but she was told to do whatever it took to get the job done, (Hearing page 95).

Aside from the stress of being available at all hours, Mrs. Wood was frequently yelled at by the owner of EUB, Tom Anderson, and “ripped” by her clients. (Hearing pages 107-08). She had full responsibility for her accounts from

sale to collection. (Hearing page 86). Even if someone else made a mistake she took the blame. (Hearing pages 46-47). Mrs. Wood always did her job no matter what it took because she lived in fear that someone would check her work and find that she had not done what she was supposed to have done. (Hearing page 83).

Mr. Anderson was an intense boss who did not have a lot of patience. (Hearing page 84). Other employees had quit because the stress level was too high for them. (Hearing page 87). Mr. Anderson yelled at Mrs. Wood in front of others at the station, during meetings, and while talking with clients. (Hearing pages 101-02 & 108). Mr. Anderson told her that if someone made him mad then he would get even and the person would not know where it came from. (Hearing page 100). Mrs. Wood feared that if she left EUB Mr. Anderson would make sure that she was not able to find work in Price again. (Hearing page 99).

Mrs. Wood experienced her first episode of significant mental stress in 1986 while in the “boot camp” training. (Hearing page 32). When she returned from the boot camp she took a medical leave of absence at her doctor’s recommendation. (Hearing page 32, Medical page 38). When she attempted to return to work after being away for about a month her salary was cut in half. (Hearing page 85-86). She remained off work for several months and had begun another job before she was invited to return to EUB at the regular starting salary for a new EUB salesperson. (Hearing page 35).

She continued to have anxiety attacks at various stressful times of work such as Christmas. (Hearing page 63). She began taking medications to help her

with repeated panic attacks and spent considerable time in relaxation activities. (Hearing page 64). She did not seek therapy or psychiatric care. (Hearing pages 64-65).

On March 16, 2000, Mrs. Wood had a nervous breakdown. (Hearing page 44). She began crying and was unable to stop. (Hearing page 44). She was completely non-functional and her husband had to call EUB to let them know she would not be coming in. (Hearing pages 77-78). All of the parties agreed that Mrs. Wood was disabled at the time of the hearing because of her anxiety. (Hearing pages 13 & 17).

#### **Facts Supporting Mrs. Wood's Disability Claim**

Mrs. Wood saw several physicians to treat her anxiety. She began treatment with Dr. Morgan who prescribed her medications and took her off work for a few weeks. (Medical pages 23-25). On May 15, 2000, Dr. Morgan wrote a prescription taking Mrs. Wood off work for at least three to four months because of stress. (Medical page 21). Dr. Morgan's notes reflect that Mrs. Wood continued to experience significant anxiety, that she was easily tearful, suffering panic attacks, crying spells, headaches, sleep disturbance, fear of being in public, fear of driving, fear of work, racing heart, and shortness of breath. (Medical page 22). On October 14, 2000, Dr. Morgan took Mrs. Wood off work for an undetermined period of time because of her inability to be around people. (Medical page 17). In a letter dated March 5, 2002, Dr. Morgan stated that Mrs. Wood's stress and anxiety were directly related to her employment. (Medical

page 11A). Dr. Morgan stated in this letter that Mrs. Wood's stress increases significantly when she contemplates a return to work and that Mrs. Wood will not be able to return to work because of this stress. (Medical page 11A).

Mrs. Wood also began seeing Dr. Carlisle, a psychologist. Dr. Carlisle noted that Mrs. Wood became more stressed when she heard the radio. (Medical page 48). He noted that she wanted to return to work and felt that she had let everyone down because she had left. (Medical page 46). Nine months after leaving work she was still crying at every therapy session because she could not go back to work. (Medical page 46). Dr. Carlisle stated that Mrs. Wood was married to her job as much if not more than she was married to her husband. (Medical page 48). He determined that her breakdown came from accumulated stress over a period of several years. (Medical page 48). At the time of this note in November of 2001, Dr. Carlisle did not believe that Mrs. Wood would ever be able to work a full-time job again. (Medical page 48). In a letter dated November 27, 2000, Dr. Carlisle stated that "the pressures of her job have been extreme" and that "there is no doubt in my mind that this is related to her work." (Medical page 45).

Mrs. Wood also saw Karl Kraync at the division of rehabilitation services to help her find new employment. (R. 34-35). Mr. Kraync provided the only assessment in the record from a vocational perspective about the nature of Mrs. Wood's work. He determined that the stress of Mrs. Wood's work was "intense."

(R. page 35). He also stated that Mrs. Wood was not employable for the foreseeable future. (R. page 35).

Mrs. Wood testified at the hearing that her condition has significantly improved since she left work. (Hearing page 81). But her psychologist told her that an attempt to return to work could be fatal. (Hearing page 82).

### **The Decision of the Appeals Board**

The Appeals Board determined that “Mrs. Wood’s work required her to work long hours, sometimes from 7 a.m. to 10 p.m. She also worked on weekends, early mornings and late evenings, even when she was at home. In addition to her long work hours, Mrs. Wood’s work duties were extensive. She serviced 200 customer accounts, which entailed weekly calls, copy writing, editing, corrections, billing, and collection. In essence, Mrs. Wood’s work duties were pervasive, overwhelming and unrelenting.” Order on Remand from Utah Court of Appeals, page 4. Based on this evidence the Appeals Board found that Mrs. Wood’s stress “‘arose predominantly and directly’ from her employment.” Based on this conclusion and others the Appeals Board found that Mrs. Wood had sustained her burden of showing legal causation and awarded her occupational disease benefits. *Id.* at page 5.

### **SUMMARY OF THE ARGUMENT**

The Petitioners have alleged that the Commission’s finding is not correct because the ALJ accepted the Medical Panel finding that Mrs. Wood’s medical

condition was fifty-percent attributable to her employment. However, the Commission expressly found that Mrs. Wood's stress arose predominantly and directly from her employment. This argument must be rejected because it is essentially an attack on the Commission's finding of fact and the Petitioners have failed to cite any evidence supporting their argument other than the Medical Panel finding, which is not conclusive evidence under the circumstances of this case. Furthermore, the Petitioners have failed to marshal the evidence supporting the Commission's decision and have therefore failed to properly address the error they allege. Finally, the only authorities provided by the Petitioners do not address the specific error they allege because they provide for a more broad application of the "predominant" standard than is provided for in the Utah statute. Therefore, the Petitioners' appeal must be rejected.

## **ARGUMENT**

### **I. STANDARD OF REVIEW**

The Labor Commission's Order must be upheld if it is supported by substantial evidence. A finding regarding the predominant cause is a finding of fact that is reviewed under the substantial evidence standard. Utah Code Ann. § 63-46b-16(4)(g) (2004). It is the Petitioners' responsibility to show that the Commission's decision is not supported by substantial evidence. *Stokes v. Bd. Of Review of the Indus. Comm'n of Utah*, 832 P.2d 56, 58 (Utah 1992) (citations omitted). Therefore the Petitioner must marshal all of the evidence supporting the

Commission's decision and then show that despite the evidence the finding is not supported by substantial evidence. *Id.*

## **II. THE COMMISSION'S DECISION IS SUPPORTED BY THE EVIDENCE**

Petitioners argue that Mrs. Wood's mental stress did not arise predominantly from employment because the ALJ adopted the findings of the Medical Panel, which found that fifty-percent of her mental condition was work related. This argument attacks the evidentiary basis for the Commission's decision that Mrs. Wood's work was the predominant and direct cause of her mental stress. As such, the Commission's decision may be overturned only if it is not supported by substantial evidence. Utah Code Ann. § 63-46b-16(4)(g). "Substantial evidence is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." *Grace Drilling Co. v. Board of Review*, 776 P.2d 63, 68 (Utah Ct. App. 1989). The reviewing court will not substitute its judgment for the judgment of the Labor Commission where inconsistent inferences can be drawn from the same evidence. *Id.* The Petitioners have failed to show that the Commission's decision is not supported by substantial evidence.

The evidence cited by the Petitioners does not support their position. The Petitioners cite a single piece of evidence to support their conclusion that Mrs. Wood's claim for benefits must be dismissed; i.e., that the ALJ adopted the findings of the Medical Panel which found that fifty-percent of Mrs. Wood's current mental condition was attributable to work. (Petitioners' Br. 7). The

Petitioners error is that they equate “extraordinary mental stress” with “current mental condition.” Mrs. Wood does not dispute that the statute requires that there be extraordinary stress that arises predominantly and directly from employment. Utah Code Ann. § 34-A-3-106(2)(a) (2004). However, the Medical Panel report does not directly address this question. The Medical Panel stated that “the panel members agree that 50% of her *current* mental condition is attributable to the occupational exposure.” Thus, the Medical Panel opinion addresses Mrs. Wood’s mental condition at the time they evaluated her, not whether the extraordinary mental stress arose predominantly and directly from her employment.

The Petitioners failed to acknowledge that the Commission expressly found that Mrs. Wood’s extraordinary mental stress arose predominantly and directly from her employment. The Petitioners also do not address the evidence cited by both the ALJ and the Appeals Board in concluding that Mrs. Wood’s extraordinary mental stress arose predominantly and directly from her employment. To show that the Commission’s finding that Mrs. Wood’s extraordinary mental stress arose predominantly and directly from her employment was in error, the Petitioners must provide this court with the evidence supporting the Commission’s decision and then show why that evidence is insufficient. The Petitioners have not addressed any of the evidence supporting the Commission’s decision. Therefore, the Petitioners have failed to show that the Commission’s decision was not supported by the evidence.



Furthermore, when the Petitioners challenge a finding of fact of the Commission they are required to marshal all of the evidence supporting the Commission's decision. *Ameritemps, Inc. v. Labor Comm'n*, 2005 UT App 491, ¶ 27 n. 5, 128 P.3d 31, 40 n. 5 (Utah Ct. App. 2005). The Petitioners are required to marshal this evidence at the point where they challenge the Commission's finding that Mrs. Wood's extraordinary stress arose predominantly and directly from work. *Roderick v. Ricks*, 2002 UT 84 ¶ 47 n.11, 54 P.3d 1119, 1129 n. 11 (Utah 2002). However, the Petitioners do not cite any of the evidence supporting the Commission's decision. Therefore, the court should reject the Petitioners argument because they failed to comply with the marshalling requirement. *State v. Larsen*, 828 P.2d 487, 491 (Utah Ct. App. 1992).

### **III. THE OTHER AUTHORITIES CITED BY THE PETITIONERS ARE NOT APPLICABLE OR PERSUASIVE IN THIS CASE.**

The authorities cited by the Petitioners are not applicable in this case because the language of the statutes cited is not similar enough to the Utah statute at issue to make them applicable or persuasive. The Utah statute at issue provides that "[l]egal causation requires proof of extraordinary mental stress arising predominantly and directly from employment." Utah Code Ann. § 34-A-3-106(2)(a). The plain meaning of this statute therefore requires that the person claiming compensation due to mental stress show that she suffered an extraordinary mental stress that arose "predominantly and directly" from her

employment. The authorities cited by the Petitioners are based on statutes that are much more broad than this.

The first statute cited by the Petitioners states that “the events of employment must be ‘predominant as to all causes combined in the psychiatric injury.’” (Petitioners’ Br. 9 *citing* Cal. Labor Code § 3208.3(b)(1) (Deering, 2006). The second statute cited states that a mental stress claim is “compensable ‘only where the predominant contributing cause of such disability is an event or series of events occurring with any employment.’” *Id. citing* Mass. Ann. Laws ch. 152 § 1(7A) (Mathew Bender, 2006). The third statute states that the “the claimant must show that the ‘work stress was the predominant cause of the mental injury.’” *Id. citing* Alaska Stat. § 23.30.010(b)(2) (Mathew Bender 2006). The fourth and final statute states that “‘the work stress and not some other source of stress [must be] the predominant cause of the mental injury.’” *Id. citing* Me. Rev. Stat. Ann. tit. 39-A, § 201(3)(B) (2005).

These statutes all are clearly more broad in their application because they require that the work related mental stress be the predominant cause of the mental injury, not, as Utah requires, that the extraordinary stress itself arise predominantly and directly from the employment. The Petitioners make no attempt to explain why the Utah statute should be interpreted more broadly than it is written, nor do the Petitioners offer any authorities that more closely mirror the Utah statute. It is the ordinary practice of this court to interpret a statute according to its plain meaning. In re *General Determination of Rights to the Use of Water*, 2004 UT

106, ¶ 18, 110 P.3d 666, 671 (Utah 2004). The Petitioners have failed to explain why anything other than the plain meaning of the statute should apply, i.e., that the “extraordinary stress [must arise] predominantly and directly from employment,” Utah Code Ann. § 34-A-3-106(2)(a), or why the authorities cited are persuasive authority regarding the interpretation of Utah’s statute other than that they contain the word predominant . Therefore, the court should not consider these authorities persuasive.

#### **IV. THIS CASE SHOULD NOT BE REMANDED WITH AN ORDER TO DISMISS**

At the very most, the Petitioners have pointed to an error in the decision of the Commission that would require a remand. The Petitioners contend that the mere adoption of the Medical Panel report is conclusive but they do not explain why the adoption of the Medical Panel report should prevail over the Commission’s finding that the extraordinary stress arose predominantly and directly from employment. At the very most, these two findings may be considered contradictory and therefore, the court could remand this case for clarification and reconciliation of the findings.


#### **CONCLUSION**

The Petitioners have failed to show that the Commission’s decision is not supported by substantial evidence and have failed to properly marshal the evidence. Furthermore, the Petitioners argument is based on an incorrect reading of the statute that would be far more restrictive of mental stress claims than is

clearly intended by the statute. Therefore the court could at the most remand this case for clarification of the Commission's findings; however, because Petitioners have failed to properly support their argument this court should uphold the Commission's decision.

DATED this 28<sup>th</sup> day of August 2006.

MYLER LAW OFFICE

  
\_\_\_\_\_  
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Attorneys for Mrs. Wood

CERTIFICATE OF MAILING

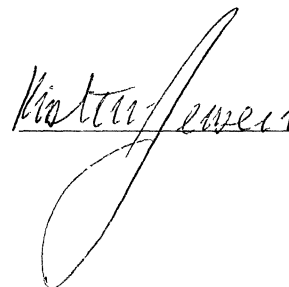
I hereby certify that a true and correct copy of the foregoing Reply Brief was mailed, postage pre-paid to the following this 23<sup>rd</sup> day of August 2006.

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A handwritten signature in cursive script, appearing to read "Kristin Jensen", written over a horizontal line.

## **ADDENDUM**

## **Labor Commission Order**

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APPEALS BOARD  
UTAH LABOR COMMISSION

NANCY M. WOOD,

Applicant,

v.

EASTERN UTAH BROADCASTING,  
WORKERS COMPENSATION FUND,  
and EMPLOYERS REINSURANCE FUND,

Defendants.

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ORDER ON REMAND FROM  
UTAH COURT OF APPEALS

Case No. 01-0208

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The Appeals Board of the Utah Labor Commission exercises jurisdiction over this matter pursuant to order of the Utah Court of Appeals, issued November 10, 2005. The Court of Appeals' order set aside the Board's previous decision and directed the Board to evaluate Nancy M. Wood's claim of stress-induced occupational disease according to the standard for legal causation set forth in Court's order.

**BACKGROUND AND ISSUES PRESENTED**

On February 26, 2001, Mrs. Wood filed an application with the Labor Commission to compel Eastern Utah Broadcasting and its insurance carrier, Workers Compensation Fund (referred to jointly as "Eastern" hereafter), to pay occupational disease benefits for Mrs. Wood's "stress and anxiety" which Mrs. Wood attributed to "stressful situations" arising from her employment at Eastern.

After an evidentiary hearing, Administrative Law Judge Hann concluded that Mrs. Wood was entitled to occupational disease benefits for anxiety disorder. Eastern then asked the Appeals Board to review Judge Hann's decision. On October 18, 2004, the Appeals Board's majority decision reversed Judge Hann's decision and denied Mrs. Wood's claim. The Board's decision concluded that Mrs. Wood's work-related stress was not "extraordinary" as that term is defined in § 34A-3-106(2)(b) of the Occupational Disease Act and, therefore, did not satisfy the Act's requirement of legal causation.

Mrs. Wood appealed to the Utah Court of Appeals. The Court of Appeals set aside the Board's decision with the following conclusion and instruction:

Under Utah Code section 34A-3-106(2)(b), the extraordinary nature of the stress of [Mrs. Wood's] employment must be judged according to an objective standard in comparison with contemporary national employment and nonemployment life. . . . rather than with employees in her own profession. Because it is unclear whether the



stress of [Mrs. Wood's] employment was compared to the stress sustained by those in her own profession of radio advertising sales or compared to the objective standard of contemporary national employment and nonemployment life, we vacate the Appeals Board's order and remand for the Appeals Board to apply the correct standard in accordance with this opinion.

Pursuant to the Court of Appeals' instructions, the Board has reviewed the evidentiary record and the arguments of the parties. The Board now enters the following findings of fact, conclusions of law, and order.

### FINDINGS OF FACT

Mrs. Wood testified at the evidentiary hearing in this matter. Eastern called no witnesses to controvert Mrs. Wood's description of the duties and conditions of employment by Eastern. In addition to Mrs. Wood's unchallenged testimony, the evidentiary record also contains Mrs. Wood's medical records, opinions of treating and consulting physicians, and the report of the impartial medical panel appointed by Judge Hann. Based on this evidentiary record the Appeals Board enters the following findings of fact relative to the issue of legal causation, which is the only issue in dispute.

Mrs. Wood has an 11<sup>th</sup> grade education. Her only work experience has been in selling radio advertising in rural eastern Utah. Almost all of that employment was with Eastern, where she worked from 1980 until March 16, 2000. At the end of her employment at Eastern, Mrs. Wood was earning approximately \$58,000 per year in salary and commissions.

Mrs. Wood's work for Eastern was demanding. She handled all duties associated with her customers, including sales calls, writing advertising copy, fielding complaints, billing for services and collecting payment. She was required to contact each customer at least once a week. Over time, she was assigned additional customers and ultimately was responsible for more than 200 accounts. In 1997, she was also designated as the company's sales manager, with responsibilities of supervising and training other sales staff.

Mrs. Wood worked more than 50 hours per week. She frequently began work between 7:00 and 7:30 a.m. and occasionally continued at work until 10:00 p.m. She sometimes worked on weekends; she also received business calls and did paperwork and research at home during the early morning and late evening. She carried and monitored two cell phones at the same time for her work.

Eastern experienced a high turnover rate among its advertising sales staff, with some individuals leaving the work because of stress. Other than Mrs. Wood, none of Eastern's sales staff stayed for more than a few years. Mrs. Wood's 20-year tenure with Eastern was therefore unusual and reflected her extreme dedication to her work.

Mrs. Wood has a personality type that predisposes her to anxiety and stress. In addition to the demands of her work, she has experienced some personal health problems and family problems. For several years prior to leaving her job at Eastern, Mrs. Wood used prescription medications for depression, anxiety and insomnia. In the period leading up to March 16, 2000, Mrs. Wood began to cry over minor work-related mistakes. Then, while at home on March 16, 2000, she began crying uncontrollably and could not stop. She has been under continuous medical care for depression, anxiety, and other medical problems since then. Mrs. Wood is not now capable of returning to gainful employment.

### DISCUSSION AND CONCLUSIONS OF LAW

In claiming occupational disease benefits, Mrs. Wood must, of course, meet all the applicable requirements of the Utah Occupational Disease Act. Judge Hann's original decision concluded that Mrs. Wood had satisfied those requirements. Eastern challenged Judge Hann's determination, but only on one point—whether Mrs. Wood claim of occupational disease benefits for her stress-related anxiety disorder satisfied the requirement of “legal causation” found in § 34A-2-106 of the Act. Now, on remand from the Court of Appeals, that is the only issue before the Appeals Board.

The requirement of “legal causation” was first grafted into Utah's workers' compensation system by the Utah Supreme Court in *Allen v. Industrial Commission*, 729 P.2d 15 (Utah 1986). Nine years later, when the Legislature added § 106 to govern mental stress claims under the Utah Occupational Disease Act, the Legislature included a “legal causation” requirement in that section as well. In essence, the requirement of “legal causation” represents a public policy determination of how far employer liability will extend for the consequences of employment conditions and events. See *Dunlavey v. Economy Fire & Casualty, et al.*, 526 N.W. 2<sup>nd</sup> 845, 853 (Iowa 1995).

Subsection 106's standards for legal causation in mental stress claims are as follows:

- (2)(a) Legal causation requires proof of extraordinary mental stress arising predominantly and directly from employment.
- (b) The extraordinary nature of the alleged mental stress is judged according to an objective standard in comparison with contemporary national employment and nonemployment life.

In applying this test for legal causation, it is first necessary to identify the “mental stress arising predominantly and directly from employment.”<sup>1</sup> As detailed in the “Findings of Fact,” above, Mrs. Wood’s work required her to work long hours, sometimes from 7 a.m. to 10 p.m. She also worked on weekends, early mornings and late evenings, even when she was at home. In addition to her long work hours, Mrs. Wood’s work duties were extensive. She serviced 200 customer accounts, which entailed weekly calls, copy writing, editing, corrections, billing, and collection. In essence, Mrs. Wood’s work duties were pervasive, overwhelming and unrelenting.

Having identified Mrs. Wood’s stress that “arose predominantly and directly” from her employment, the Appeals Board must determine whether that stress was “extraordinary” within the meaning of § 106(2). As the Utah Court of Appeals explained in its decision, “the objective standard referenced in Utah Code section 34A-3-106(2)(b) requires the Commission to compare the stress of [Mrs. Wood’s] employment with the stress that people nationwide **generally** endure in their employment and nonemployment life . . .” (Emphasis added.) Thus, the proper comparison is not with either the most stressful or the least stressful situations encountered in life, but rather, the broader range of conditions that are “generally” experienced.

Mrs. Wood’s unchallenged testimony establishes that she was required to continually work long hours to perform her job duties. The Appeals Board recognizes that many individuals occasionally work long hours to complete a project or meet a deadline. However, overtime wage laws and common practice establish the 40-hour week as a general norm. With respect to the stresses generally endured in nonemployment life, duties such as caring for family members, keeping house, or lawn care can impose time demands similar to what Mrs. Wood experienced at work. But in general, the time requirements of home and family do not rise to that level.

Long hours were not Mrs. Wood’s only source of work-related stress. She also had the demands of servicing approximately 200 customers. She had to contact each of them each week. She was responsible for all phases of their accounts. She wrote their advertising copy. She

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<sup>1</sup> Analysis of legal causation in a mental stress claim is similar to the analysis used in workers compensation claims, where the concept of legal causation first arose.

- In a workers’ compensation claim, it is first necessary to identify the nature and extent of the workplace exertion on which the claim is based. After the workplace exertion has been identified, established standards of comparison are used to judge whether the exertion is sufficient to constitute legal causation.
- In stress-related occupational disease claims, it is also necessary to identify the nature and extent of the workplace stress. Then, the test set out in § 106(2)(b) is applied to determine whether the stress is “extraordinary” so as to satisfy § 106(1)’s requirement of legal causation.

monitored broadcasts. She corrected errors and fielded complaints. She billed them for services and collected on the accounts. These duties imposed unrelenting pressure on Mrs. Wood.

In comparison, other situations impose equal or greater performance pressures. For example, some sales positions impose performance demands and require extensive customer service. In occupations such as medicine or law, practitioners must exercise the utmost care and judgment in situations that are, literally, life and death. Business executives must sometimes perform their duties under extreme pressure for high stakes. However, these situations cannot be viewed as examples of "ordinary" pressures of modern life. When the scope of comparison is limited to the stress that people **generally** endure, such as ordinary work loads and occasional "multi-tasking," the Appeals Board concludes that the demands of Mrs. Wood's work imposed extraordinary stress on her.

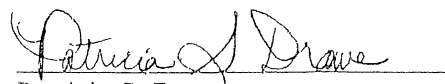
In summary, because Mrs. Wood's work-related stress was extraordinary when compared to the customary stress of modern life, the Appeals Board concludes that Mrs. Wood has satisfied §106's requirement of legal causation. In light of this conclusion, and in the absence of any other objections to Judge Hann's decision of July 30, 2003, the Appeals Board concurs with Judge Hann's conclusion that Mrs. Wood is entitled to occupational disease benefits.


#### ORDER

For the reasons stated herein, the Appeals Board denies Eastern's motion for review dated August 29, 2003, and affirms the award of benefits to Mrs. Wood contained in Judge Hann's decision of July 30, 2003. It is so ordered.

Dated this 31<sup>st</sup> day of March, 2006.

  
Colleen S. Colton, Chair

  
Patricia S. Drawe

  
Joseph E. Hatch

#### NOTICE OF APPEAL RIGHTS

Any party may ask the Appeals Board of the Utah Labor Commission to reconsider this Order. Any such request for reconsideration must be received by the Appeals Board within 20 days of the date of this order. Alternatively, any party may appeal this order to the Utah Court of Appeals by filing a petition for review with the court. Any such petition for review must be received by the court within 30 days of the date of this order.

NANCY M. WOOD  
ORDER ON REMAND  
PAGE 6

CERTIFICATE OF MAILING

I certify that a copy of the foregoing Order On Remand From The Utah Court of Appeals in the matter of Nancy M. Wood, Case No. 01-0208, was mailed first class postage prepaid this 31<sup>st</sup> day of March, 2006, to the following:

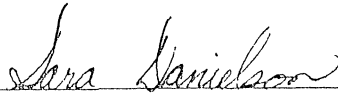
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BRADFORD D MYLER, ESQ.  
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\_\_\_\_\_  
Sara Danielson  
Utah Labor Commission

**ALJ Order**

UTAH LABOR COMMISSION  
ADJUDICATION DIVISION  
P. O. Box 146615  
Salt Lake City, Utah 84114-6615  
Telephone: 801-530-6800

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NANCY M. WOOD,

Claimant,

vs.

EASTERN UTAH BROADCASTING and/or  
WORKERS COMPENSATION FUND;  
EMPLOYERS REINSURANCE FUND,

Respondents.

\* PRELIMINARY DETERMINATION OF  
\* PERMANENT TOTAL DISABILITY AND  
\* ORDER  
\*

\* Case No. 2001208  
\*

\* Judge Debbie L. Hann  
\*  
\*

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The above entitled matter came on for hearing before Debbie L. Hann, and Administrative Law Judge, Utah Labor Commission on March 6, 2002. The claimant was present and represented by Bradford Myler, Attorney at Law. The respondents, Eastern Utah Broadcasting and Workers Compensation Fund were represented by Floyd Holm, Attorney at Law. The Employers Reinsurance Fund was represented by Sherrie Hayashi, Attorney at Law.

#### STATEMENT OF THE CASE

These actions were initiated by three applications for hearing filed by the claimant. Prior to the hearing, case no. 2001209 was resolved via a compromise settlement of claim of disputed validity approved December 18, 2001. At the hearing, the parties agreed that case no. 2001210 should be dismissed as it is a duplicate of the claim in 2001209 which has been resolved. Thus, the only remaining case for adjudication is 2001208.

Case no. 2001208 is an occupational disease claim filed by the claimant on February 26, 2001 alleging the claimant has been unable to work since March 16, 2000 due to stress and anxiety as the result of exposure to stressful situations in her employment with the respondent, Eastern Utah Broadcasting. The respondents denied liability for the claim alleging the claimant does not meet the legal causation requirement of suffering from extraordinary mental stress arising predominately from her employment and that such stresses be on the objective standard in comparison with contemporary national employment and non-employment life. On December 26, 2001, the claimant requested the Employers Reinsurance Fund be joined in the case and an amended request for answer was issued. The Employers Reinsurance Fund filed an answer denying liability for the claim and moved to dismiss the Employers Reinsurance Fund from the action because the claimant first suffered disability on March 16, 2000 thus, the cause for action did not arise until that day.

At the hearing, the parties agreed the claimant is disabled and not capable of maintaining gainful employment. The only issue raised was whether the claimant's employment was the cause of her mental condition and if so, what portion if any was non-industrial.

Findings of Fact, Conclusions of Law & Interim Order was issued on August 20, 2002, referring the issue of apportionment to a Labor Commission medical panel. The panel issued its report and it was forwarded to the parties via certified mail on January 21, 2003. No objections to entry of the medical panel report were received, therefore the medical panel report is admitted into evidence pursuant to Utah Code § 34A-2-601.

#### FINDINGS OF FACT

The claimant worked for Eastern Utah Broadcasting, located in Price, Utah, from 1980 through March 16, 2000 as a sales account representative. The claimant was a sales representative for the company which operates a radio station broadcasting in eastern Utah. In March 2000, the claimant was earning \$3500 per month base salary plus commissions that at the time she quit were \$1000-\$1500 per month for a total salary of \$4500-\$5000 per month. The claimant's compensation rate for permanent total disability is the weekly maximum of \$433.00.

The claimant is currently unemployed and receives Social Security disability benefits. The parties agreed the claimant is disabled and not capable of maintaining gainful employment. The claimant is tentatively permanently and totally disabled beginning March 17, 2000.

#### *Findings Related to Claimant's Symptoms*

The claimant began experiencing increasing levels of stress over a period of time that slowly got worse. The claimant began having anxiety attacks at work because she was scared that she was not doing the job as she should. The claimant would often come home from work and go to bed because she felt overwhelmed. The claimant would also wake up at night in a panic about work. She also had panic attacks where her heart began racing if she was late to a sales meeting. She also began crying over small things at work such as not having advertising copy ready for the DJ to review or a sale appointment that had not gone well. The claimant usually had panic attacks at work and was able to calm down at home.

In the months following her breakdown in March 2000, the claimant could not leave her house. She has slowly improved to where she is now able to ride in a car and go into stores for a brief period.

Prior to March 2000, the claimant was able to control her symptoms with massage therapy, relaxation tapes and Xanax as needed.

#### *Findings Related to Job Duties and Working Conditions*



The claimant began as a sales representative in 1980 working 50 sales accounts. In 1981, there were 4 sales representatives with 50 accounts each. Throughout the claimant's employment, sales representatives were hired, trained, and the accounts redistributed, but they usually quit in less than a year, so there was constant hiring, training, and redistribution of work. When a sales representative quit, the accounts were usually re-divided between the sales representatives, or when the claimant was the only representative left, they were given to her to handle. By 1986, there were 2-3 representatives covering about 200 accounts, with the number of accounts fluctuating with the number of sales representatives. By 1987, there were 3 representatives working, and in 1988, the number went down to 2. By the late 1980s, the claimant was the only sales representative in charge of 200 accounts. From 1991 through 1993, a second sales representative would be hired and the accounts divided, but due to very high turnover, the claimant was often working by herself. In 1996-97, the claimant was promoted to sales manager, although she was still handling sales accounts. The turnover was still quite high, with sales representatives usually staying for a year or less, and she was often the only sales person employed by the respondent. For the first 10 months of 1999, the claimant was working alone until another representative was hired in October or November 1999. By the time she quit in March 2000, there were only 5 employees to handle 2 radio stations.

The claimant worked a minimum of 48 hours per week, and it was often closer to 50-55 hours per week. The claimant was usually to the office or a remote live broadcast by 7-7:30 Monday through Friday and worked until at least 5:30 p.m. She also worked on account billings on the weekends and at home in the evenings. She also prepared memos and did computer research at home in the evenings. The claimant carried 2 cell phones, paid for by the company, and answered them as early as 5:00 a.m. and as late as 11 p.m. She sometimes did not answer them on the weekend but generally made herself available. The claimant traveled and met with outlying customers in Grand Junction and Emery County at least once per month. When the claimant became the sales manager in 1997, she went into the office early to prepare for the sales representatives' arrival and often stayed late to review what had been done that day and to plan for the next day. The claimant did not have set hours but worked the number of hours necessary to get the job done, which fluctuated with the time of year and number of other employees.

As a sales representative, the claimant was responsible for selling radio advertising, which required her to sell the time, gather the information necessary to write the ad, draft the text of the ad for the DJ to read, prepare the billing, and collect the money due. To sell the ads, the claimant met with potential customers and made proposals for advertising. The claimant also contacted potential customers by telephone and she was required to make phone contact with each account at least once per week. She also managed the shopping show radio segment, which required her to collect items from merchants for people to listen, call in, and make a bid. In order to make sales, the claimant researched and prepared promotional ideas to sell to customers. She also provided customer services and follow-up and dealt with upset or angry customers in the event something went wrong. She also coordinated live broadcasts each morning from remote business locations and was present during these shows. In 1997, she was also responsible for training and supervising new sales representatives along with managing her own accounts. She was also responsible for taking over a representative's

sales accounts when one quit. By March 2000, the claimant was selling radio ads to the standing accounts, the coupon by computer sales promotion, the table top news promotion and the shopping show promotion. The other representative only did the sales accounts and the coupon by computer promotion.

Tom Anderson, the station owner, was the claimant's supervisor. The claimant described him as an "intense" person with little patience and a "powerful person." Mr. Anderson yelled at the claimant on a regular basis, on average about once every 2 months, in front of others. He complimented her work too. He routinely yelled at the other sales representatives in her presence. In 1986, the claimant took a medical leave of absence for 3 weeks to a month, in part because of stress, although the release only specified "health reasons" (Medical exhibit 38). As a result, Mr. Anderson cut the claimant's base salary in half and would not restore her salary upon her return to work so the claimant quit and eventually took a job at another station. Several months later, Mr. Anderson re-hired the claimant at her previous salary. The claimant interpreted this action by Mr. Anderson as a demotion for taking time off.

The claimant is not a high school graduate. As part of the claimant's training as a sales representative, the station sent her 1-3 times per year to a high pressure sales seminar she characterized as "boot camp" from 1981 to 1998 or 1999. This was a 4-5 day training seminar held in Grand Junction, Colorado where participants were taught the art of the hard sell. The seminar was always led by the same person who ridiculed the claimant in front of others and was made an example of what not to do. At these seminars, the claimant was instilled with the idea that she was personally responsible for all aspects of the advertising process, including those which she had no direct control such as whether the DJ ran the ad correctly, read the ad correctly and whether clients paid the bill. The claimant dreaded these seminars and her medical leave in 1986 was shortly after her return from a seminar.

Radio sales are more difficult than other types of advertising sales because the merchant has to trust that the ads are running as promised, especially those merchants who are outside the listening area of the station. The station was also in a small, rural advertising market and she had to repeatedly approach merchants who had not been interested in radio advertising. The claimant had to deal with upset or angry customers when something went wrong such as an error in the advertising. The claimant experienced increased stress, and the claimant became visibly upset at the hearing when testifying about this, when she took over as sales manager because she was also responsible for ensuring customers were happy with the sales representatives' work. The claimant also expressed to Dr. Carlisle that people would get angry at her for "station-related problems" that were not under her control. Medical exhibit 46.

The claimant had strong feelings of responsibility toward her employment and was extremely concerned that the community, her co-workers and supervisor did not perceive her as a failure. She also believed that the success or failure of the station was in large part her responsibility since income to the station came through the sales department and she was often the only person in the sales department. Dr. Carlisle noted in his first session with the claimant that "[s]he had personalized her work to the point that it was part of her identity." He

also later notes "...the way she appears to have been managed by guilt and fear in her work..." Medical exhibit 46.

In May 1999, the claimant was hospitalized with spinal meningitis. Shortly afterward, the station set up a home office with a computer so that she could do work from home. This office was in place in her home through March 2000.

On the morning of March 16, 2000, the claimant began crying and could not stop. She did not know why she was crying. The claimant's husband called the station to report the claimant would not be coming in to work that day because she was sick. The claimant has not been able to return to work since.

*Findings Related to Claimant's Mental Condition and Treatment*

The claimant began taking Xanax for anxiety at least since April 1991. Medical exhibit 35. The claimant did not take the medication on a daily basis and took it only when she was feeling high levels of anxiety or panic. The claimant testified the panic attacks and extreme anxiety that lead to taking some Xanax was always related to work. She did not take it daily but sometimes would take more than 1 pill in a day depending on her anxiety level and severity of the panic attack. She had more panic attacks and anxiety when she was very busy at work around holidays, due to the higher number of sales promotions during those times. The records reflect refills on November 25, 1991, July 23, 1992, December 17, 1993, October 24, 1994 and July 2, 1998. Medical exhibit 31-34. The claimant began taking Prozac in January 2000.

The claimant currently suffers from an anxiety disorder with panic attacks and depression. As a result, the claimant suffered a nervous breakdown in March 2000. Medical exhibit 9, 11A and 45.

The claimant has been under Dr. Morgan's care for severe anxiety and depression since March 2000 which he believes is directly related to and was caused by the claimant's employment with Eastern Utah Broadcasting. Medical exhibit 11A. The claimant suffers from panic attacks which, as of November 14, 2001 prevented her from going out in public. Medical exhibit 12. Although the claimant has been undergoing treatment since March 2000, Dr. Morgan's opinion is that the claimant cannot return to work because when she contemplates such a move, the claimant's anxiety, depression and sleeplessness returns. As a result, Dr. Morgan does not believe the claimant is able to return to "...any work at the capacity at which she is skilled and trained for." Medical exhibit 11A.

The claimant sought therapy for her mental condition from Dr. A.L. Carlisle on a regular basis from September 2000 through November 2001 through the Division of Rehabilitation Services. Dr. Carlisle's opinion is that the claimant's condition is related to her work. Dr. Carlisle found the claimant was a very dedicated worker who gave priority to work over family and that the stress she felt was caused by her work environment. He noted that other areas of the claimant's life such as marriage and relationships with her children had been going fairly well and that the only area of her life causing stress was her employment. Medical exhibit 45.

This summary is also borne out by his treatment notes which focus almost exclusively on work. Dr Carlisle noted the claimant is gradually improving largely by staying in stress-free environments such as her home. He also noted she cannot come into therapy without breaking into tears. He believes the claimant will be unlikely to return to full-time work again unless it is employment which causes little stress and possibly only on a part time basis. Medical exhibit 48

The claimant underwent an independent medical examination by Dr Mooney. Many of the questions asked of Dr Mooney, such as whether the claimant would meet the criteria for a compensable mental stress claim are outside the scope of Dr Mooney's expertise as a medical provider and require a legal conclusion, something reserved for the ALJ. However, with regard to medical causation, Dr Mooney's opinion is that the claimant's mental condition is the result of somatization, chronic back pain, stress intolerance due to meningitis and stress from work. He notes that work contribution to the claimant's condition is only a percentage of the total cause of the anxiety disorder although he did not apportion a specific percentage. Dr Mooney did not believe the claimant was fit for competitive employment due to her mental health condition. Medical exhibit 9

The claimant currently takes Prozac, Xanax, a muscle relaxer, Amitriptyline, Sonata and Lortab for low back pain.

The claimant suffered extraordinary mental stress. The claimant's employment contained an extraordinary amount of mental stimulus that would reasonably lead to a person experiencing mental stress.

The Labor Commission medical panel was comprised of Alvin J. Wirthlin, M.D., a neurologist, and Robert H. Burgoyne, M.D., a psychiatrist. The only issue referred to the panel was apportionment of non-industrial causes of the claimant's mental condition. The panel was supplied with all available medical records and the claimant was examined by the panel members. Dr. Burgoyne also performed a psychiatric evaluation. The panel agreed with Dr. Mooney that a percentage of the claimant's current mental condition is attributable to non-industrial factors, including a personality type that predisposes her to stress and anxiety as a result of multiple stressors. The panel's opinion was that 50% of the claimant's mental condition is the result of her work activities with Eastern Utah Broadcasting and 50% from non-industrial sources. Although Dr. Carlisle is of the opinion all of the claimant's condition may be attributed to her work at Eastern Utah Broadcasting, it does not appear Dr. Carlisle performed psychological testing, as Dr. Mooney did, and upon which the panel relied to make a full assessment of the claimant. Further, Dr. Mooney and the medical panel were also able to review all of the claimant's medical records, something Dr. Carlisle was not able to do. Thus, Dr. Mooney and the medical panel opinion is supported by a preponderance of the evidence. Dr. Mooney apportioned the claimant's condition between industrial and non-industrial sources, but he did not break out the percentage; thus, the panel's apportionment of 50% industrial and 50% non-industrial shall be used as the basis for determining benefits.

*Findings Related to Claimant's Other Medical Conditions*

The claimant suffered from spinal meningitis in 1999 and was hospitalized for 6 days in May 1999. The claimant had headaches before and after this episode although the headaches that hospitalized her were the worst she has ever experienced either before or after this episode. The claimant had strep throat which turned into a spinal infection. Medical exhibit 143-145.

The claimant had a hysterectomy in 1986 and has been on hormone replacement therapy, estrogen, since that time.

In 1995, the claimant began having headaches that started with nervous tension. She sometimes called in sick for several days at a time because she had "collapsed." The claimant testified she took Ambien in 1997 and Wellbutrin in 1996 or 1997.

On February 17, 1995, the claimant suffered a low back injury at work resulting in a disc herniation at L4-5. Medical exhibit 85 and 73. The claimant continued to suffer from ongoing back pain as a result and on March 20, 2000, Dr. Alan Colledge noted the claimant's back condition was deteriorating. Medical exhibit 51.

#### *Findings Related to Other Possible Causes of Claimant's Mental Condition*

The claimant currently married and has been through the time she was employed by Eastern Utah Broadcasting. Her husband suffered an accident at work in approximately May 1998 and he now receives Social Security Disability benefits. He also received some workers compensation benefits until he reached medical stability. The claimant considered her marriage to be good and not a source of stress in her life.

The claimant's son is married, and he and his wife and children lived with the claimant and her husband. Her son divorced, had custody of the children and remarried and had a third child all while living with the claimant. The claimant's son and family moved out in December 2001. The claimant did take some responsibility for the grandchildren and watched them from time to time. The claimant and her husband did not support their son and he paid for all utilities and part of the food expenses. The claimant denied that having her son and his family live with her was a source of stress for her.

#### PRINCIPLES OF LAW

A compensable occupational disease is "... any disease or illness that arises out of and in the course of employment and is medically caused or aggravated by that employment." Utah Code Ann. § 34A-3-103. Utah recognizes claims for mental conditions caused by occupational stress in Utah Code § 34A-3-106. That provision states:

(1) Physical, mental, or emotional diseases related to mental stress arising out of and in the course of employment shall be

compensable under this chapter only when there is a sufficient legal and medical causal connection between the employee's disease and employment.

(2) (a) Legal causation requires proof of extraordinary mental stress arising predominantly and directly from employment.

(b) The extraordinary nature of the alleged mental stress is judged according to an objective standard in comparison with contemporary national employment and nonemployment life.

(3) Medical causation requires proof that the physical, mental, or emotional disease was medically caused by the mental stress that is the legal cause of the physical, mental, or emotional disease.

(4) Good faith employer personnel actions including disciplinary actions, work evaluations, job transfers, layoffs, demotions, promotions, terminations, or retirements, may not form the basis of compensable mental stress claims under this chapter.

(5) Alleged discrimination, harassment, or unfair labor practices otherwise actionable at law may not form the basis of compensable mental stress claims under this chapter.

(6) An employee who alleges a compensable occupational disease involving mental stress bears the burden of proof to establish legal and medical causation by a preponderance of the evidence.

A cause of action for an occupational disease is considered to arise on "...the date the employee first suffered disability from the occupational disease and knew, or in the exercise of reasonable diligence should have known, that the occupational disease was caused by employment." Utah Code Ann. § 34A-3-108 (2)(b).

The Employers' Reinsurance Fund has no liability for industrial accidents or occupational diseases occurring on or after July 1, 1994. Utah Code § 34A-2-702.

When an occupational exposure is not the sole cause of disability, liability for occupational disease claims may be apportioned for non-industrial causes. Utah Code § 34A-3-110.

#### CONCLUSIONS OF LAW

The claimant suffered a compensable occupational disease in the course and scope of her employment at Eastern Utah Broadcasting.

The respondents, Eastern Utah Broadcasting and/or Workers Compensation Fund, are liable to the claimant for permanent total disability benefits beginning March 17, 2000 at the rate of \$216.50 per week.

The respondents, Eastern Utah Broadcasting and/or Workers Compensation Fund, are liable to the claimant for 50% of reasonable and necessary medical care related to the claimant's occupational disease pursuant to the Labor Commission RBRVS schedule.

## DISCUSSION AND ANALYSIS

### *I. Compensability of Claimant's Occupational Disease Claim*

Utah Code § 34A-3-106 recognizes coverage of mental stress claims based upon mental stimulus producing a mental or nervous result. The legal causation standard has two elements: the claimant must suffer "extraordinary mental stress" and "the extraordinary nature of the stress must be judged in comparison with national employment and non-employment life."

Stress is defined in *Schmidt's Attorney's Dictionary of Medicine* as "[a] condition of strain on one's emotions or a state marked by a series of stimuli of an unpleasant nature which tend to distort the normal coordinated physiological and mental process of the body." Thus, stress is a person's reaction to external stimuli, not the stimuli itself. The occupational disease statute uses the term "mental stress" both in the context of the stimulus and the result in that it requires the claimant to suffer from "extraordinary mental stress" arising predominately and directly from employment but then requires the "extraordinary nature" to be judged by an objective standard in comparison with national employment. Stress, a person's reaction to stimuli, is a subjective reaction and cannot be judged on a national employment standard. However, the stimuli causing the stress can be so assessed and thus the ALJ concludes that the statute intends the objective analysis of the legal causation standard to be of the stimuli, not of the stress reaction to stimuli. Thus, the ALJ concludes the claimant must prove, in addition to suffering from extraordinary mental stress, that the stimuli she experienced was more than the usual stress of everyday work and non-work life generally in the late 20th century. This is solely a legal standard and is not a medical determination as the statute sets forth that medical causation requires medical evidence, that the mental stress reaction was medically caused by the stimuli of the work environment.

The first element of the legal causation standard, that the claimant suffered from extraordinary mental stress is easily demonstrated by the medical records. The claimant suffered a nervous breakdown, suffers from an anxiety disorder marked by severe panic attacks and depression. This condition was the result of mental stimuli experienced by the claimant and must be controlled by medication. The claimant, as a result, cannot easily leave her home, has difficulty riding in a car and has difficulty handling social interaction with anyone but family members. Such a reaction is clearly extraordinary in that the average person does not, in the normal course of work, have such a reaction to mental stimuli of working and living in late 20th century American society.

The second element of the legal causation standard, that the stimuli she experienced was more than the usual stress of everyday work and non-work life in the late 20th century is more difficult. While it is clear the statute recognizes people can suffer from mental disease resulting from mental stimuli in the workplace, it is also clear the statute intends that to be

compensable, the workplace stimuli must be more than an average workplace. Yet, to say that all workplaces are stress inducing would bar any claim and that is clearly not the intent.

Therefore, the evidence of the workplace environment must demonstrate a situation of more than the day to day emotional strain and tension that all employees experience as a consequence of engaging in the demands of employment and daily interactions with people outside one's immediate family and friends. The workplace stimuli must also be assessed objectively to determine whether they were capable of producing mental stress in individuals generally. The ALJ disagrees with the respondents that the stimuli must be compared with other employment of the same type the claimant was engaged in. The statute references "contemporary national employment life" a broader comparison standard than just to other employees in the same type of employment. Had the legislature intended a narrower comparison, the language of the statute would have so expressed such a standard. The clear meaning of the statute is an average, aggregate of employment experience that an average American worker experiences in daily work life.

Significant changes have occurred in the late 20th century American work environment due to technology and downsizing. It is generally expected that in today's workforce fewer employees will handle more tasks with the aid of technology. Technological changes have now blurred the once distinct line between work and private life. Computers, the internet and remote work network access make it possible for many employees to work from home. Cell phones, pagers and e-mail also allow communication outside the confines of the office.

Despite these changes however, an employer cannot consider an employee to be available to work at all hours of the day and night and on weekends whether the employee is salaried or not. Off duty efforts are not generally inherent in work situations and most jobs do not require extensive night and weekend preparation on a regular basis to perform the work competently. While cell phone make it possible to contact an employee when they are working outside the office setting, some parameters of when an employee is expected to answer and be available is necessary. An employee cannot be expected to respond during all off hours as the effect would be to never truly be off the job. It is still generally accepted that an average work day in the United States is 8 hours and that an average work week is 40 hours.

While employers may experience periods of high employee turnover resulting in other employees accepting extra duties on a temporary basis, a constant increase in workload over long periods of time is not common to most employment. All employment has busy times but a prolonged increase in hours combined with additional job duties is beyond the average employment.

In this case, there are numerous conditions, when taken in combination, exceed the average employment experience in contemporary American life that would result in an average person experiencing an extraordinary level of mental stress.

During the 20 years of employment there was significant employee turnover which required the claimant to routinely pick up other employees' work loads and for some extended periods of time the claimant was solely responsible for all sales. Because the claimant was a



senior employee, when new people were hired, she had to spend extra time helping new employees learn the job and this became her official job duty in 1997. The claimant experienced consistent extra workload and duties, from employee training and picking up work left by employees quitting, rather than intermittent increases.

The claimant was routinely required to work more than a 40 hour work week, usually 50-55 hours per week. When the claimant became ill in 1986 and took time off (3-4 weeks) she was demoted and had her salary cut in half thus sending a clear message that she was not to take time away from work, even for medical reasons. When she became ill and was hospitalized in 1999, EUB installed a computer in her home so that she could continue working. She also responded to early morning, late night and weekend phone calls from 2 cell phones provided by her employer. It is not common in an employment setting to be required to respond to 2 cell phones. There was little time when the claimant could be away from her work responsibilities.

The claimant had more than average job duties for a sales representative. She was also responsible for preparing the account billing and ensuring accounts were paid, in addition to selling the advertising. When she was made a supervisor, she was still in charge of significant sales responsibilities in addition to supervising and training new account representatives. The promotion added significant job duties to an already full work schedule rather than allowing her to delegate servicing accounts to solely concentrate on managerial duties of training, supervision, customer relations and development of advertising promotions.

The claimant's supervisor had a somewhat volatile personality and had no hesitation in publicly reprimanding both the claimant and other employees. Although the claimant was reprimanded on average of every other month, having to see and hear fellow employees be reprimanded caused stress inducing stimuli and this was not an uncommon occurrence. Further, public reprimands in front of less senior account representatives or customers would reasonably cause an average person to experience mental stress. In addition to the public reprimands she experienced from her employer, the claimant was also sent by EUB to high pressure sales seminars, she characterized as "boot camp", where she was humiliated in front of others on a regular basis. These seminars took place out of state for several days at a time resulting in regular long exposure to conditions resulting in a stress reaction.

The claimant also was in a position for taking responsibility for things over which she had little or no control. When customers got angry at her for mistakes in the way ad copy was read or when a customer did not pay a bill, the claimant was held responsible but these were events outside her control to correct or change. The claimant, as often the only sales representative was responsible in many ways for the continued existence of the station as much of the revenue to run the company depended on her abilities to sell ads and collect revenue.

Thus, taking all of the aspects of the claimant's employment into consideration in comparison with the day to day stress an average employee experiences in work life, the claimant's employment contained an extraordinary amount of mental stimulus that would

reasonably lead to a person experiencing mental stress. Therefore, the claimant has met her burden of proving her employment was the legal cause of her mental condition.

The claimant also has the burden of proving the mental stress that resulted from stimuli at her employment is the medical cause of her current condition. There is no dispute that at least a portion of the claimant's medical condition was caused by her employment. There was a dispute as to apportionment of non-industrial causes. Drs. Morgan and Carlisle believe the claimant's employment at EUB is the sole cause of her condition and that no apportionment to non-industrial causes is warranted. Dr. Mooney believes only a portion of her condition is the result of her employment. Therefore, the issue of apportionment was referred to a medical panel for evaluation. The panel agreed that non-industrial factors contributed to the claimant's condition and apportioned 50% to non-industrial causes. As stated above, the preponderance of evidence supports apportionment and as the panel is the only opinion as to an exact amount, the benefits will be reduced accordingly.

*II. Employers' Reinsurance Fund Motion to Dismiss*

The Employers Reinsurance Fund only has liability for those injuries or occupational diseases occurring before July 1, 1994. Although the claimant's exposure occurred before this date, her claim did not arise under Utah Code Ann. § 34A-3-108 (2)(b) until March 16, 2000 when she was no longer able to work due to occupational disease. Therefore, the Employers Reinsurance Fund has no liability for this claim and is dismissed as a party.

ORDER

IT IS HEREWITH ORDERED that the respondents, Eastern Utah Broadcasting and/or Workers Compensation Fund pay the claimant \$38,010.91 for permanent total disability compensation covering the period March 17, 2000 through July 29, 2003. This amount is accrued and due and payable to the claimant plus interest at the rate of 8% per annum pursuant to 612-1-5, U.A.C., less \$6,726.64 in attorneys fees payable directly to Bradford Myler, Attorney at Law plus 15% of accrued interest.

IT IS FURTHER ORDERED that the respondents, Eastern Utah Broadcasting and/or Workers Compensation Fund, pay the claimant ongoing weekly permanent total disability compensation beginning July 30, 2003 at the rate of \$216.50 per week until further order of the Commission.

IT IS FURTHER ORDERED that the respondents, Eastern Utah Broadcasting and/or Workers Compensation Fund, pay 50% of reasonable and necessary medical care related to the claimant's occupational disease.

IT IS FURTHER ORDERED that the respondents, Eastern Utah Broadcasting and/or Workers Compensation Fund,

IT IS FURTHER ORDERED that the Employers' Reinsurance Fund is dismissed as a party.

IT IS FURTHER ORDERED that case number 2001210 is dismissed.

DATED THIS 30<sup>th</sup>, day of July, 2003

UTAH LABOR COMMISSION



DEBBIE L. HANN  
Administrative Law Judge

#### NOTICE OF APPEAL RIGHTS

A party aggrieved by the decision may file a Motion for Review with the Adjudication Division of the Utah Labor Commission. The Motion for Review must set forth the specific basis for review and must be received by the Commission within 30 days from the date this decision is signed. Other parties may then submit their responses to the Motion for Review within 20 days of the date of the Motion for Review.

Any party may request that the Appeals Board of the Utah Labor Commission conduct the foregoing review. Such request must be included in the party's Motion for Review or its response. If none of the parties specifically request review by the Appeals Board, the review will be conducted by the Utah Labor Commission.

MAILING of Order

I certify that I have mailed the attached document in the case of NANCY WOOD, Case No. 2001208, to the following parties by first class prepaid postage on July 30, 2003.

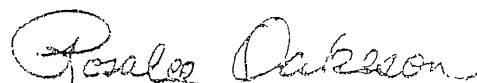
NANCY WOOD  
4476 E 2750 SO  
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EASTERN UTAH BROADCASTING  
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PRICE UT 84501

FLOYD HOLM, Atty,  
PO BOX 57929 INTEROFFICE MAIL  
SALT LAKE CITY UT 84157-0929

BRADFORD D MYLER, Atty,  
P O BOX 970039  
OREM UT 84097-0039

EMPLOYERS REINSURANCE FUND  
160 EAST 300 SOUTH 3d Flr (PO Box 146611) INTEROFFICE MAIL  
SALT LAKE CITY UT 84111-6611



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Rosalee Oakeson

## **Medical Panel Report**

Honorable Debbie L Hann  
Administrative Law Judge  
Labor Commission of Utah  
160 E 300 So /P O Box 146615  
Salt Lake City, UT 84114-6615

Date of Panel: November 12, 2002  
Re Nancy Wood  
Emp Eastern Utah Broadcasting  
Inj. Occupational Disease  
LC # 2001208

### **MEDICAL PANEL REPORT**

A medical panel consisting of Drs. Robert H. Burgoyne, M.D., and Alvin J Wirthlin, M.D , with the latter as chairman, met to evaluate the case of Nancy Wood with reference to an occupational disease.

The file made available to the panel was reviewed by the panel members. The history was reviewed with the applicant, and she was examined by the panel members. X-rays were reviewed as well.

The records which were reviewed consist of the following:

- Records from George Mooney, Ph.D.
- Records from Max G. Morgan, M.D.
- Records from A.L. Carlisle, Ph.D
- Records from Alan L. Colledge, M.D
- Records from Jeannee Olsen, P A
- Records from Blain Jensen, P A.
- Records from Dr Paylen
- Records from Glenn L Momberger, M.D
- Records from Glenn Etzel, M D
- Records from Fred W Feverstein, M D
- Physical therapy notes
- A variety of diagnostic studies
- Records from Castleview Hospital
- Records from St Mary's Hospital

## INJURY AND TREATMENT HISTORY

This case involves an occupational disease claim alleging an inability to work since March 16, 2000 due to stress, anxiety, and depression. It is alleged that this is the result of exposure to stressful conditions in her employment. The statement of the case, Findings of Fact provide extensive detail about the work conditions which will not be reproduced here. On page 19, the conclusion is reached

“Thus, taking all of the aspects of the claimant’s employment into consideration in comparison with the day-to-day stress an average employee experiences in work life, the claimant’s employment contained an extraordinary amount of mental stimulus that would reasonably lead to a person experiencing mental stress. Therefore, the claimant has met her burden of proving her employment was the legal cause of her mental condition.”

It is further noted that there is no dispute that at least a portion of the petitioner’s medical condition was caused by her employment but the dispute revolves around a difference of opinion of apportionment.

The panel review with the petitioner was carried out under somewhat difficult circumstances. It was very difficult to put the petitioner at ease. Throughout the interview, lasting an hour and a half, she exhibited repetitive bouncing of one leg up and down and repetitive movements of one hand or the other. She was tearful continuously throughout the interview for the first hour, finally able to control her emotions for the last half an hour.

The petitioner supplied a description of her work situation which parallels that in the Findings of Fact. Basically in her work over a period of 20 years of selling ads, writing copy, and collecting money, she felt full responsibility for things going wrong and by her account basically had no other life except for her work. This included evenings, weekends, and long hours at work. She described losing employees and having the remainder of the workload placed on her. She also describes quitting work at that radio station on one occasion when her salary was cut in half after taking a leave of absence. A few months later she returned to the same job with the original salary, but by her account she was not able to handle the increased stress.

The petitioner was seen by her family practitioner, Dr. Max Morgan, since 1972. The records do not include any mention of mental illness or stress/anxiety disorder. On June 10, 1999 she was seen with multiple symptoms including headache and insomnia. Again, however, there is no mention of anxiety or stress. There was a question of a viral encephalitis on that date. On August 5, 1999, she complained of decreased memory, extreme fatigue, and inability to function with experiencing fatigue. Starting with a note dated April 13, 2000 she complained of headaches and the note indicates she had been placed on Prozac by Dr. Monahan. This was for depression. He

also comments that at the time she was easily brought to tears. On the 24<sup>th</sup> of April 2000 Dr Morgan gave her a medical leave of absence due to health reasons of two to four weeks. Also, on the 4<sup>th</sup> of May 2000 she had concerns regarding anxiety and stress for which she had counseling. On the 15<sup>th</sup> of May the note included reference to headaches, sleep disturbance, episodes of crying spells, panic disorder, and becoming extremely anxious. It is noted that "She is easily brought to tears upon questioning her. She admits to having fear of being in public, fear of driving, fear of the job, suddenly awakening in the middle of the night, hyperventilating, becoming exquisitely short of breath, rapid heart rate, tachycardia." On that date Dr Morgan supplied a medical restriction from work for at least three to four months. Subsequent notes continue to refer to anxiety and depression, fears, and she was to be evaluated by Karl Kraync for psychological counseling.

On the 24<sup>th</sup> of October 2000 Dr Morgan supplied a letter "To Whom It May Concern" "Mrs Wood is presently disabled from her own or any occupation due to the following reasons: major anxiety, depression, status post fracture left foot, status post viral encephalitis with residual emotional lability, menopausal syndrome."

On November 14, 2001, Dr. Morgan indicates in a letter "To Whom It May Concern" that "Ms. Wood is still disabled from any occupation because of her anxiety disorder and panic attacks. This position is in agreement with Karl Kraync of the Division of Rehabilitation that Ms. Wood's current emotional circumstance is directly related to her stress from her working environment." A further letter dated March 5, 2002 also states "We feel that the stress and anxiety that she has suffered has been directly related to and caused by her employment and under such circumstances she was advised to undergo a medical leave of absence." By that date she was still unable to return to work.

Therapy review notes were supplied by A.L. Carlisle, Ph.D. beginning on September 27, 2000. Apparently Karl Kraync is her Department of Rehabilitation Services counselor. In his initial note, Dr Carlisle indicates the petitioner worked at the radio station for 20 years and developed viral encephalitis and Epstein Barr. He reports her as having panic attacks and posttraumatic stress disorder. He indicates she was on Prozac and Xanax and cried during most of that session. Subsequent therapy review notes indicate crying easily, particularly during sessions, and struggling with stress and depression. Panic attacks apparently continued. In a note dated November 2, 2001, Dr Carlisle comments "She was married to her job as much if not more than to her husband. She takes great pride in doing well on a job. She talks about training sessions she was sent to in which the participants were led to believe that if they do not keep their production up at a high level they are failures. I feel that her breakdown came from accumulated stress over a period of several years." He felt that she would not ever be able to return to work full time unless with a relatively stress-free job.



The petitioner was evaluated by George Mooney, Ph D on January 7, 2002. This represented an independent psychological evaluation. When relating the petitioner's history, Dr. Mooney comments, "According to Ms. Wood she has had mental health problems for the past two years only and otherwise has not had any mental health conditions or mental health treatment. The records actually reflect that she was treated for anxiety on a prolonged basis after her hysterectomy. Progress notes from her family doctor indicated that she was regularly taking Xanax beginning at least in late 1991." However, he noted there did not otherwise seem to be a past history of mental health conditions or mental health treatment. An MMPI-II, Beck depression inventory and symptom checklist were tests that were administered. He felt the MMPI revealed significant elevations of scales III, I, and II, conforming to the "Conversion V" profile. Dr. Mooney comments, "Overall these clinical elevations suggest that Ms. Wood may be a person who converts psychological problems into physical complaints, such as headaches. These defenses may be somewhat tenuous from a psychological point of view, because they are obviously not protecting her from anxiety." The Beck depression inventory gave her a score of 40 which would ordinarily be found in severely depressed individuals. Dr. Mooney's diagnosis was "Axis I generalized anxiety disorder. Major depressive disorder single episode in partial remission. Axis III. back pain, hysterectomy, encephalitis." He concluded that she did not appear fit for competitive work or school activities on the basis of her mental health condition. In answer to a direct question to consider what portion of her stress is related to her work exposure, Dr. Mooney answered, "Ms. Wood's anxiety appears to be multi-factorial in nature and related to preexisting anxiety disorder, personality characteristics such as somatization, chronic back pain, stress intolerance due to meningitis and routine stresses from work. Of these factors, the routine stresses from work are probably only a percentage of the total cause of her generalized anxiety disorder."

In his summary and impressions, Dr. Mooney concludes:

"The patient apparently has had personality characteristics of the preexisting nature, which resulted in denial of emotional distress on her part and a possible conversion of unacceptable psychological distress into physical symptoms such as headaches. She also appeared to have a strong need to please other people. In particular, she has had somewhat of a paternalistic relationship with her employer. The combination of these two factors, including her need to please others and a paternalistic relationship with her employer, may have made it difficult for her to criticize her work hours or work conditions."

#### CURRENT SYMPTOMS

The petitioner indicates that she becomes stressed very easily and is very often tearful. She indicates that she will cry easily but never used to do this. Anytime she talks about her current situation or past work experience she will always cry, but otherwise not necessarily under other

November 12, 2002

Re: Nancy Wood — Medical Panel

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circumstances. When she quit her work she did so because she could not stop crying. She reports that gradually this has lessened so that now she is able to go to town and interact with people where she could not do so before. She reports that she will sleep eight hours a night as long as she takes Ambien. She reports that she has some forgetfulness and she is not as organized as she used to be. She denies suicidal thoughts or past attempts. She denies hallucinations, although in her mind she seemed to hear radio station broadcasts for about a year and a half after she left work. She denies feeling picked on or paranoid ideation. When she is not under stress she believes she does reasonably well. She reports some back pain from time-to-time. She indicates that she had no anxiety or depression either in her growing up or young adult years.

### **PAST MEDICAL HISTORY, SOCIAL HISTORY, AND FAMILY HISTORY**

The petitioner had a hysterectomy in 1986. There is a history of a left foot fracture. She was hospitalized for her hysterectomy, strep throat, and what was called viral meningitis or encephalitis in 1999. She had headaches with normal spinal fluid. She also has been treated for hypertension. She has hay fever. Current medications include Prinzide; Valium, she thinks 5 mg two at night and two in the morning; amitriptyline, unknown strength; Parafon Forte, a muscle relaxant; Prozac; and Ambien.

A review of the petitioner's medical record reveals the following. Glenn Etzel, M.D., saw her on August 14, 1989 for vague complaints of fatigue. His appraisal was "Fatigue. Suspect this is functional." The notes include symptoms such as diffuse myalgias, headache, and the 1995 back injury on February 17, 1995 with an impression of lumbar radiculopathy. Subsequent notes indicate such things as complaints of losing control of the right leg and continuing back problems with some numbness, dry cough, body aches, diarrhea, swollen glands.

Of considerable interest is a letter dictated by Glenn L. Momberger, M.D., dated April 6, 1995 to the Worker's Compensation Fund of Utah indicating the petitioner had a classic radiculopathy and needed a lumbar MRI scan. The final paragraph of his letter states, "She is so happy with her job, that she thinks she can modify it, as she moves around town, and live with her current situation." On October 10, 1996 in a note Dr. Momberger documents that she had been followed for nearly two years with a disc herniation at L4-5 and was not getting better by her account. Because of continuing pain she was referred to Dr. Alan Colledge. He saw her on the 22<sup>nd</sup> of January 1997 and commented on her continued back and right leg pain. In a note dated May 2, 1997, Dr. Colledge comments, "She can no longer live with this pain and wishes to have it addressed in some form or fashion including consideration of surgery."

Dr. Colledge saw her again in March of 2000 with continued low back pain which, by his account, over time became progressively worse. "She is in pain 100% of the time in her right leg mostly. At its worst her pain is 10/10, averaging 5/10."

## EXAMINATION

A mental status examination was conducted by Dr. Burgoyne and will be reported separately in his letter.

## X-RAY REVIEW

No x-rays were forwarded for review.

## CONCLUSIONS

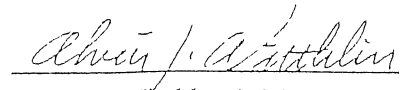
Assuming but not deciding that the applicant was involved in circumstances as outlined, and acknowledging the stipulation of facts, the panel concludes in terms of reasonable medical probability as follows:

1. What portion of the petitioner's current mental condition was medically caused by her industrial exposure and what portion, if any, is the result of non-industrial causes?

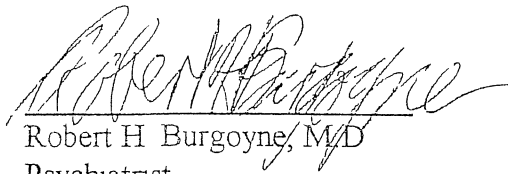
Answer: The panel members agree with George Mooney, Ph.D., that a percentage of her current mental condition is attributable to her occupational exposure. There were stresses other than her job situation including chronic low back pain which Dr. Alan Colledge had characterized as severe and worsening. Her MMPI suggests the presence of a personality type which may predispose her to stress and anxiety as a result of multiple stressors. She also suffered chronic headaches which were an additional stress. Taking this into consideration, the panel members agree that 50% of her current mental condition is attributable to the occupational exposure.

November 12, 2002  
Re Nancy Wood — Medical Panel  
Page 7

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Alvin J. Wirthlin", written over a horizontal line.

Alvin J. Wirthlin, M.D.  
Neurologist  
Panel Chairman

A handwritten signature in cursive script, appearing to read "Robert H. Burgoyne", written over a horizontal line.

Robert H. Burgoyne, M.D.  
Psychiatrist  
Panel Member

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## PSYCHIATRIC EVALUATION

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PATIENT: Nancy Wood  
DATE: November 12, 2002

This was done as part of a medical panel for an alleged occupational disease with her quitting March 16, 2002. The administrative law judge has stated that the claimant suffered from extraordinary mental stress, which is easily demonstrated by the medical records. I agree with this after I have perused the extensive records supplied to us.

Patient has talked about her early life being a fairy tale life and that now she feels she has let people down because she had to quit her job due to the stress. Patient said that she doesn't cry because she thinks this is a weakness. She said she can't talk about the situation, however, without crying and she did cry as she talked with us. In addition, when she first sat down she had gross tremors of her legs and hands, but as she continued to answer our questions, this stopped and she calmed down. Patient said that she does miss some sleep and she has a hard time getting up now. Patient hasn't worked since the above date.

Patient said she is not suicidal and has never tried to kill herself and she said she wouldn't ever do this. Patient said she had hallucinations last year when she was hearing two radio stations. Patient doesn't think she is being picked on. She said she wasn't the only one having stress on the job, but she said she was reprimanded in front of others. She had to monitor two cell phones all of the time and she was on call for 24 hours. Patient said at times she wouldn't agree with her boss, but she had to do what he said.

Patient could name five immediate past Presidents of the United States. She could name four large cities in the United States. She did serial sevens, but only got half way through and had already made two mistakes. Patient knew the date.

Patient said that she gets real frustrated with her memory. She has to keep starting things and then forgets. She said she thought she liked her job, but was told it was abusive.

Patient said that if she stays away from stress now she is okay. She thinks she is pretty healthy. She described her duties on her job and it was a stressful situation, as indicated above.

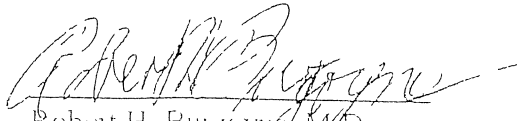
The question we have to answer is as follows: "What portion of the petitioner's current mental condition was medically caused by her industrial exposure, and what portion, if any, is a result of non-industrial causes?"

The answer to the above is 50/50. There must have been something she experienced in her pre-job life, which she called a fairy tale, which permitted her to stay in such a stressful job situation. Most everybody else would have resigned from the job, as many did as recorded in the medical records.

Nancy Wood

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However, she apparently thought that to not let people down she had to stay on the job in spite of the almost unbearable stress. This early experience in her life situation somehow enabled her to put up with a situation that she didn't have to endure. Therefore, the above determination



Robert H. Burgoyne, MD  
Psychiatrist

RHB/de